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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,362	08/05/2003	Rob Falke	40055-0001	8884
20480	7590	08/31/2007		
STEVEN L. NICHOLS RADER, FISHMAN & GRAVER PLLC 10653 S. RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095			EXAMINER WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	
			MAIL DATE	DELIVERY MODE
			08/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/635,362	Applicant(s) FALKE, ROB	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Exhibit A (with affidavit). The exhibit teaches a piece of furniture made of wood, and inherently a method comprising preparing one or more handwritten writings, i.e. a signature, by hand directly on the wood of which said piece of furniture is made, and storing the handwritten writings on the piece of furniture, wherein the furniture comprises a member comprising a surface of the wood that is specifically configured to permanently receive said handwritten writings (wood which is capable of being carved/marked on). Namely, as stated in the affidavit, after constructing the wooden nightstand, the artisan, Donald Wiehe wrote his name in the side/plank of the extendable drawer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, 28, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robie (788,946) in view of Wagner (977,349). Robie teaches a piece

of furniture (Fig. 1) and inherently a method comprising preparing and storing handwritten writings on the piece of furniture (drawer covers/planks capable of being printed/written on), wherein the furniture comprises a member comprising a surface (13) that is specifically configured to permanently receive said handwritten writings (15).

Under the writings are items related thereto. For claim 1, Robie fails to teach that the cabinet is specifically made of wood. However, as shown by Wagner, wooden furniture with a drawer (5) having a cover/plank (7) is well known in the art. Also, the examiner takes Official notice that carving wood using wood carving utensils is well known in the art. (see also Board decision of June 8, 2007 on page 14) Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the cabinet of Robie out of wood, such as is taught by Wagner, for aesthetic reasons, for economic reasons, depending on materials readily available, etc. Also, it would have been obvious to make the markings (15) on the surface using the desired utensil. (For claim 28, see Board decision of June 8, 2007, pages 19-20)

For claims 2, 14 and 15, Robie in view of Wagner fails to teach markings/parallel grooves etched in the plank. However, the use of lines on members to aid in adding written material thereon (so that the words/letters are written in a straight line) is well known in the art. Therefore, to etch such grooves in the planks of Robie in view of Wagner, would have been an obvious design consideration, for the advantage stated above. (Note: this Official notice was upheld by the Board in the decision of June 8, 2007)

Furthermore for claims 9-11 and 30-32, adding a family tree, pedigree chart, signature, date(s), stamps, specific historical event, time etc. on the plank would have been an obvious consideration to one of ordinary skill in the art, depending on the desired need of the person preparing the cabinet, its intended use, etc. (Note: see Board decision of June 8, 2007 pages 17-19 wherein this Official notice was upheld.)

Claims 1-15, 28, and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner (977,349) in view of Robie (788,946). Wagner teaches a piece of furniture (Fig. 1) and inherently a method comprising preparing and storing handwritten writings on the piece of furniture, wherein the furniture comprises a member comprising a surface (7) that is specifically configured to permanently receive said handwritten writings (made of wood so inherently can be written on). Under the panel, in the drawer, can be placed items related to the writings. For claim 1, Wagner fails to specifically teach writings on the plank. Robie teaches having writings (15) on plank portions (13) of a drawer (11). Also, the examiner takes Official notice that carving wood using wood carving utensils is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the furniture piece of Wagner adding writing onto its plank, such as is taught by Robie, for informational purposes, aesthetic purposes, etc. Also, it would have been obvious to make the markings on the surface using the desired utensil.

For claims 2, 14 and 15, Wagner in view of Robie fails to teach markings/parallel grooves etched in the plank. However, the use of lines on members to aid in adding written material thereon (so that the words/letters are written in a straight line) is well

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known in the art. Therefore, to etch such grooves in the planks of Wagner in view of Robie, would have been an obvious design consideration, for the advantage stated above.

Furthermore for claims 9-11 and 30-32, adding a family tree, pedigree chart, signature, date(s), stamps, specific historical event, time etc. on the plank and storing related items in the drawer would have been an obvious consideration to one of ordinary skill in the art, depending on the desired need of the person preparing the cabinet, its intended use, etc.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new grounds of rejection.

Furthermore, please see Board decision of June 8, 2007 wherein the examiner's art rejection positions were affirmed. A Board decision in an application is the "law of the case"/has a resjudicata effect and is thus controlling in the application and any subsequent related application. See MPEP 1214.01. No further review or remarks will be made concerning these portions, e.g. the Official notice portions, of the rejections.

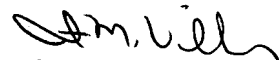
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkens
August 26, 2007


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637